

Cochran, Patricia (DCOZ)

From: Michael McDuffie <michael.mcduffie@gmail.com>
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To: DCOZ - BZA Submissions (DCOZ)
Subject: BZA Case # 20374

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I write to briefly comment on the pending motion to postpone the May 4th hearing, which motion was apparently filed on April 29th--*i.e.*, only a few days before the scheduled hearing. As a preliminary matter, I would note that the applicants apparently failed to timely post any signage relating to the May 4th hearing and no affidavit of posting was filed.

The last substantive hearing concerning the already built front vestibule at issue in this case--built, I believe, sometime in the Spring/Summer of 2020--was held by the BZA on February 24, 2021. At the hearing, the BZA indicated that it would treat the application as a variance and suggested to the applicants that they seek to establish their entitlement to relief based upon an argument of detrimental reliance. Applicants thereafter hired present counsel who has now twice sought to delay a substantive hearing on the basis of a purported unidentified zoning amendment or purported discussions with the Office of Planning regarding an unidentified interpretation or amendment that they say would allow them to seek a special exception for the already built front vestibule. Counsel for the applicants is apparently seeking to delay any substantive hearing until some uncertain date in the future--perhaps the Fall of 2022 or later.

While I fail to see how an unidentified amendment that might be made more than two years after a structure was built could be relevant to an argument of detrimental reliance here, the lack of proper notice/posting and the BZA's past practices suggest that an order of postponement will nevertheless be issued. I would ask, however, that the BZA set a firm date so that this matter can be resolved given the lengthy procedural history at issue and the fact that the structure has been standing for approximately two years as of writing. I am concerned that the neglect to prosecute this application--which has been pending since the Fall of 2020--while counsel for the applicant seems to have been working behind the scenes to encourage changes to the applicable regulations relating to an already built structure sets a bad precedent. Whenever that hearing is held, I hope the BZA will take due account of the problematic nature of this application as is alluded to in the final paragraph of my submission in Exhibit 42, which problematic nature includes violating the explicit terms of the order issued by the BZA relating to this property in BZA Case #19936 by changing the as-built architectural plans from those that were actually approved by the BZA and barreling ahead with the construction of the front vestibule despite knowing or at the very least being on notice that such structure would violate the applicable zoning regulations without additional relief.

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Board of Zoning Adjustment
District of Columbia
CASE NO.20374
EXHIBIT NO.59